

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Hubby's Edibles, LLC,)	
)	
)	Opposition No. _____
Opposer,)	Serial No. 85/463,956
)	
v.)	Mark: HUBBY'S EDIBLES
)	
INCREDIBLE EDIBLES, INC.)	
)	
Applicant.)	

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Re: Application No.: 85/463,956
Mark: HUBBY'S EDIBLES
Applicant: INCREDIBLE EDIBLES, INC
Filed: November 3, 2011
Published: April 17, 2012
International Class: 030
For: Bakery goods, chocolate bars

NOTICE OF OPPOSITION

Dear Sir: 05/17/2012 SWILSDM1 00000001 85463956
 01 FC:6402 300.00 0P

Hubby's Edibles, LLC, a limited liability corporation organized and existing under the laws of California, having its principal place of business at 124 Matisse Circle, Aliso Viejo, California 92656 ("Opposer"), by and through its attorneys, hereby states that it will be damaged by registration of the mark "HUBBY'S EDIBLES," covered by U.S. Application Serial No. 85/463,956, which is owned by INCREDIBLE EDIBLES, INC. ("Applicant"), and hereby opposes registration of the same.

The grounds for the notice are as follows:



05-16-2012

1. Opposer provides, *inter alia*, Hubby's Edibles ("Opposer's Goods").
2. Since long prior to Applicant's filing of its application to register the mark "HUBBY'S EDIBLES," Opposer has used, advertised and promoted in commerce, and continues to use, advertise, and promote in commerce, Opposer's HUBBY'S EDIBLES mark in connection with Opposer's Goods.
3. Opposer owns extensive common law rights to its HUBBY'S EDIBLES mark that pre-date Applicant's rights, if any.
4. Opposer has expended substantial resources to advertise and promote Opposer's Goods, all under Opposer's HUBBY'S EDIBLES mark.
5. By reason of Opposer's advertisement, sale, offering for sale, promotion and use, and the wide-spread distribution of Opposer's Goods, Opposer's HUBBY'S EDIBLES mark has come to be recognized as signifying Opposer. Opposer has built up extensive goodwill in its HUBBY'S EDIBLES mark.
6. Prior to Applicant's filing of its application to register the mark "HUBBY'S EDIBLES," purchasers had come to recognize Opposer's HUBBY'S EDIBLES mark as identifying goods emanating exclusively from Opposer.
7. On November 3, 2011, Applicant filed an application to register "HUBBY'S EDIBLES," for goods identified as "Bakery goods, chocolate bars," in Class 030 (Application No. 85/463,956). The subject application was published for opposition on April 17, 2012 in the Official Gazette (Trademarks) of the United States Patent and Trademark Office ("USPTO").
8. Pursuant to the April 17, 2012 publication of Applicant's "HUBBY'S EDIBLES" mark, a Notice of Opposition to the application must be filed by May 17, 2012. Therefore, this Notice of Opposition is being timely filed.

9. The goods “Bakery goods,” in Applicant’s herein-opposed application are highly related to Opposer’s Goods, with which Opposer uses the HUBBY’S EDIBLES mark.

10. Applicant’s mark, “HUBBY’S EDIBLES,” is phonetically identical and visually similar to Opposer’s HUBBY’S EDIBLES mark. Specifically, “HUBBY’S EDIBLES,” is confusingly similar to Opposer’s HUBBY’S EDIBLES mark.

11. Applicant’s use and registration of the mark “HUBBY’S EDIBLES,” with the goods specified in its trademark application Serial No. 85/463,956, is likely to cause confusion, deception and/or mistake among the relevant public.

12. Applicant’s use and registration of the mark “HUBBY’S EDIBLES” is likely to falsely suggest a connection with Opposer and Opposer’s HUBBY’S EDIBLES mark.

13. Applicant’s use and registration of the mark “HUBBY’S EDIBLES.” interferes with Opposer’s HUBBY’S EDIBLES mark and will damage Opposer, its business, and its goodwill.

14. Opposer HUBBY’S EDIBLES trademark is famous because it is widely recognized by actual and potential customers as a designation of Opposer’s Goods, particularly goods relating to baked goods and chocolate bars. Thus, Opposer’s HUBBY’S EDIBLES mark is famous and distinctive within the meaning of § 43(c) of the Lanham Act, 15 U.S.C. § 1125 (c).

15. Additionally, Opposer’s HUBBY’S EDIBLES mark is famous, and was famous among Opposer’s actual and potential customers prior to Applicant’s filing of its trademark application for “HUBBY’S EDIBLES.”

16. Registration of Applicant's mark likely will cause some of Opposer's actual and potential customers to think of Applicant, and no longer solely of Opposer, when they encounter the term "HUBBY'S EDIBLES" in connection with Applicant's baked goods and chocolate bars.

WHEREFORE, Opposer believes it will be damaged by registration of Applicant's mark and prays that registration be denied.

* * * * *

The requisite filing fee prescribed by 37 C.F.R. §2.6(a)(17), in the amount of \$300.00, is attached hereto. All correspondence relating to this matter should be directed to the undersigned attorney for Opposer.

Dated: May 12, 2012

Respectfully Submitted,

Hubby's Edibles, LLC

By:  _____

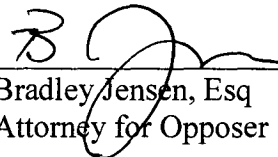
Bradley Jensen, Esq.
JENSEN & ASSOCIATES
124 Matisse Circle
Aliso Viejo, CA 92656
Telephone (949) 468-8255
Facsimile (949) 492-8255

Attorney for Opposer

CERTIFICATE OF SERVICE

Opposer, HUBBY'S EDIBLES, LLC, hereby certifies that a copy of this NOTICE OF OPPOSITION has been served upon Applicant INCREDIBLE EDIBLES, INC., on this 12th day of May, 2012, by First Class U.S. Mail, postage prepaid, at the following address:

Incredible Edibles, Inc.
4 8030 Remmet Avenue
Canoga Park, CA 91304

By: 
Bradley Jensen, Esq
Attorney for Opposer